



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

TIDEWATER REGIONAL OFFICE

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L. Preston Bryant, Jr.
Secretary of Natural Resources

David K. Paylor
Director

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Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO TRIAD DEMOLITION, LLC

Registration No. 61537

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §10.1-1307, §10.1-1316, and §10.1-1319 between the State Air Pollution Control Board and Triad Demolition, LLC for the purpose of resolving certain violations of environmental law and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1301 and 10.1-1184.
3. "Triad" means the Triad Demolition, LLC; a wrecking and demolition company registered and authorized to do business in Virginia.
4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
5. "Director" means the Director of the Department of Environmental Quality.
6. "Facility" means the site where Triad conducts its operations and is located at 3917 Hanes Street in Chesapeake, Virginia.

9. "Order" means this document, also known as a Consent Order.
10. "TRO" means the Tidewater Regional Office of DEQ, located in Virginia Beach, Virginia.
11. "Regulations" mean the Virginia Regulations for the Control and Abatement of Air Pollution (9 VAC 5-60-10 *et seq.*).

SECTION C: Findings of Fact and Conclusions of Law

1. Triad Demolition, LLC, is a wrecking and demolition company that owns and operates the Facility.
2. On November 14, 2007, during a meeting with DEQ staff, Triad submitted a "Form 7" air permit application for a new portable concrete crusher and screen based at the Facility. In the meeting, Triad reported that the new portable crusher and screen had been re-located to Naval Station Norfolk and had operated during late October 2007 to early November 2007. Triad also reported that the company ceased operation of the new portable concrete crusher and screen as soon as the company realized that the operation was not covered by an air permit.
3. DEQ staff reviewed DEQ files and did not find a previously submitted application or an air permit issued for the new portable concrete crusher and screen.
4. On January 8, 2008, DEQ compliance staff conducted a site inspection of the new Triad portable concrete crusher and screen located at Naval Station Norfolk. A stockpile of crushed and screened concrete debris was observed next to the crusher by DEQ staff; the crusher was not operating at the time of the inspection. Triad personnel noted that the new portable crusher and screen had operated to crush approximately 1,500 tons of concrete material since being located to Naval Station Norfolk during late October 2007; however, it had not operated since early November 2007.
5. A review of the "Form 7" air permit application by DEQ permitting staff indicated that the new portable concrete crusher and screen was subject to the Virginia State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution. Article 6 of the Regulations, specifically 9 VAC 5-80-1120(A), requires new sources of uncontrolled particulate emissions ("PM10") greater than 15 tons per year to obtain an air permit from the Department. The calculated 39 tons per year uncontrolled particulate emissions for the new Triad portable concrete crusher were above the air permitting exemption levels for PM10; the new Triad portable concrete crusher was not exempt from the Regulations. DEQ alleges that Triad violated the Regulations by failing to obtain an air permit prior to installation and operation of the new portable concrete crusher and screen observed by DEQ at Naval Station Norfolk on January 8, 2008.

6. A New Source Review Stationary Source Permit to Install and Operate for the new portable concrete crusher and screen was issued by DEQ to Triad on January 23, 2008, under Registration No. 61537.
7. On February 7, 2008, DEQ issued to Triad a Notice of Violation addressing the above allegations and applicable regulatory and statutory requirements.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1455, orders Triad, and Triad voluntarily agrees, to pay a civil charge of \$2,600.00 within 30 days of the effective date of this Order in settlement of the violations cited in this Order. Payment shall be made by check payable to the "Treasurer of Virginia," and shall be sent to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Either on a transmittal letter or as a notation on the check, Triad shall indicate that this Submission of Payment is pursuant to this Order, which shall include Triad's Federal Identification Number.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Triad, for good cause shown by Triad, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those alleged violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Triad on February 7, 2008. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For the purposes of this Order and subsequent actions with respect to this Order, Triad admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Triad consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Triad declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the Virginia Air Pollution Control Act and it

waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.

6. Failure by Triad to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Triad shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Triad shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Triad shall notify the TRO Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the TRO Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Triad. Notwithstanding the foregoing, Triad agrees to be bound by any compliance date which precedes the effective date of this Order.

11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Triad. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Triad from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, Triad Demolition, LLC voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of June 12, 2008.

Francis L. Daniel
Francis L. Daniel

Triad Demolition, LLC voluntarily agrees to the issuance of this Order.

By: [Signature]
Date: 6/16/08

Commonwealth of Virginia

City/County of Chesapeake

The foregoing document was signed and acknowledged before me this 6 day of

June, 2008, by M. Daniel Hooty III, who is
(month) (name)

Owner of Triad Demolition, LLC on behalf of Triad Demolition, LLC.
(title)

Mary S. Tilley
Notary Public

My commission expires:

